

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF AMENDMENT AND
of ARM 17.8.743 pertaining to)	ADOPTION
Montana air quality permits -)	
when required, and adoption of)	
new rules I-VI pertaining to)	(AIR QUALITY)
oil and gas well facilities)	

TO: All Concerned Persons

1. On August 11, 2005, the Board of Environmental Review published MAR Notice No. 17-229 regarding a notice of public hearing on the proposed amendment and adoption of the above-stated rules at page 1479, 2005 Montana Administrative Register, issue number 15.

2. The Board has amended ARM 17.8.743 and adopted new rules III (17.8.1603) through VI (17.8.1606) exactly as proposed and has adopted new rules I (17.8.1601) and II (17.8.1602) as proposed, but with the following changes:

NEW RULE I (17.8.1601) DEFINITIONS For the purposes of this subchapter, the following definitions apply:

(1) through (3) remain as proposed.

(4) "Potential to emit" (PTE) means the maximum capacity of a facility or emitting unit, within physical and operational design, to emit a pollutant. Any physical or operational limitation on the capacity of the facility or emitting unit to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, is treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions are not considered in determining potential to emit.

NEW RULE II (17.8.1602) APPLICABILITY AND COORDINATION WITH MONTANA AIR QUALITY PERMIT RULES (1) The requirements of this subchapter apply to oil and gas well facilities that were completed after March 16, 1979, or that were modified after March 16, 1979, and that have the potential to emit (PTE) more than 25 tons per year (TPY) of any airborne pollutant that is regulated under this chapter, ~~10 TPY or more of any individual hazardous air pollutant (HAP), or 25 TPY or more of any combination of HAPS. For the purposes of this rule, PTE is calculated without regard to any air pollution control equipment used at the facility.~~

(2) through (4) remain as proposed.

3. The following comments were received and appear with the Board's responses:

COMMENT NO. 1: Comments on the proposed rules from several entities dealt with allowing flexibility in the rules for the Department to deal with changing operating scenarios in the application and permit review process.

RESPONSE: Currently an entity that submits an application for a Montana air quality permit may request a change or an amendment to the application at any time prior to the Department issuing a decision on the application. In addition, sources may request some operational flexibility built into their permits, and the Department has the authority to include this operational flexibility in the permit. Therefore, the Board believes this issue is addressed in the existing rules and no change is necessary.

COMMENT NO. 2: Comments were received on the language in New Rule II. The commentor requested a change to the proposed rule by deleting the reference to hazardous air pollutants (HAPS) in New Rule II(1).

RESPONSE: The Board agrees with the comment and has amended the proposed rule to reflect the change. Currently an oil and gas well facility with the potential to emit less than 25 tons per year of any pollutant is not required to obtain a Montana air quality permit under existing air quality rules. The rule was not intended to make the requirement for oil and gas well facilities more stringent than the existing rules for air pollution sources in Montana. Should an oil and gas well facility have potential emissions above the 10/25 tons per year HAP level, a Title V permit would be required.

COMMENT NO. 3: Comments received recommended the Board delete the language that excludes the use of control equipment in determining potential to emit in New Rule II.

RESPONSE: The Board agrees with the comment and has amended the proposed rules to reflect the change. With the addition to the proposed rules of a definition of "potential to emit" (PTE) and clarification in the proposed rules that air pollution control equipment can be considered in the PTE determination only if the requirements are federally enforceable, the need to further clarify the limitation on control equipment in the proposed rules is not necessary and that language has been deleted.

COMMENT NO. 4: One commentor stated that the requirement in New Rule III(f) for oxidation catalytic reduction on lean-burn engines greater than 85 brake horsepower (BHP) is too restrictive. The commentor stated that, by design, lean-burn engines have low emissions and that addition of oxidation catalytic reduction will not reduce emissions of nitrogen oxides. The commentor stated that oxidation catalytic reduction will reduce carbon monoxide emissions but only at a cost that is much greater than the benefit.

RESPONSE: The Board disagrees with the comment for the following reason. The Board believes that controls are appropriate for both rich-burn and lean-burn engines. The Board

believes that it is technically feasible to install control equipment on engines of either design. The five-year annualized cost is less for the rich-burn design engines due to the larger reduction in pollutants from the lean-burn design engines, but neither design is economically infeasible.

Also, the owner or operator of an oil or gas well facility may request alternative operating schedules through the permit application, to allow the control equipment requirement to be changed.

COMMENT NO. 5: One commentor asked why the proposed rule does not include a definition of "potential to emit". The same commentor also asked if these proposed rules were intended to be an entirely new subchapter in the Montana air quality rules or were going to be incorporated into an existing subchapter.

RESPONSE: The Board intends to place these rules in a new subchapter of the Montana air quality rules. The Board agrees with the commentor that a definition of "potential to emit" should be included in the rules. The proposed rules have been amended and now are consistent with other air quality rules.

COMMENT NO. 6: One commentor expressed concern about the inspection and leak repair requirements section of the proposed rules being burdensome on small operating units and not in keeping with current company policy.

RESPONSE: The Board finds that the proposed requirement to inspect all piping components is in keeping with current permitting requirements and believes that this provision protects public health and the environment and is not overly burdensome.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

DAVID RUSOFF
Rule Reviewer

By:

JOSEPH W. RUSSELL, M.P.H.
Chairman

Certified to the Secretary of State, _____, 2005.